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OFFICE OF PETITIONS

In re Application of
Hotta et al.
Application No. 09/974,878
Filed: October 12, 2001
Attorney Docket NO. 040302-0278

: DECISION DISMISSING PTA REQUEST

This decision is in response to applicants' APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) filed on February 16, 2007 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to account for the time accrued for 1.702(b) and 1.703(b).

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being DISMISSED as the Office has issued the patent and calculated the amount of time the patentee accrued for the Office failure to issue the application within three years of the filing under 37 CFR 1.702(b). See Patent Term Adjustment calculation included herein.

Applicants are reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office has assessed the \$200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy


PALM INTRANET

 Day : Saturday
 Date: 2/2/2008
 Time: 14:24:15

PTA Calculations for Application: 09/974878

Application Filing Date:	10/12/2001	PTO Delay (PTO):	735
Issue Date of Patent:	10/17/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	213
Post-Issue Petitions:	0	Total PTA (days):	522
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78.5	09/27/2006	PTA 36 MONTHS	735		
78	10/17/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
77	09/18/2006	EXPORT TO FINAL DATA CAPTURE			
76	09/15/2006	FINISHED INITIAL DATA CAPTURE			
75	09/15/2006	DISPATCH TO FDC			
74	09/05/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
73	09/05/2006	WORKFLOW - QUERY REQUEST - FINISH			
72	08/07/2006	TC RETURN TO PUBS			
71	08/16/2006	ISSUE FEE PAYMENT VERIFIED			
70	08/16/2006	ISSUE FEE PAYMENT RECEIVED			
69	06/23/2006	PUBS CASE REMAND TO TC			
68	07/11/2006	WORKFLOW - QUERY REQUEST - BEGIN			
67	06/23/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
66	06/22/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
65	06/02/2006	EXPORT TO INITIAL DATA CAPTURE			
64	05/25/2006	MAIL NOTICE OF ALLOWANCE			
63	05/25/2006	MAIL EXAMINER'S AMENDMENT			
62	05/24/2006	ISSUE REVISION COMPLETED			
61	05/24/2006	EXAMINER'S AMENDMENT COMMUNICATION			
60	05/24/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	05/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
58	05/23/2006	NOTICE OF ALLOWABILITY			
57	05/09/2006	DATE FORWARDED TO EXAMINER			

56	05/01/2006	AMENDMENT AFTER FINAL REJECTION	28	54
55	05/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED		
54	01/03/2006	MAIL FINAL REJECTION (PTOL - 326)		
53	12/29/2005	FINAL REJECTION		
52	10/11/2005	DATE FORWARDED TO EXAMINER		
51	09/26/2005	RESPONSE AFTER NON-FINAL ACTION	2	49
50	06/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
49	06/24/2005	MAIL NON-FINAL REJECTION		
48	06/24/2005	NON-FINAL REJECTION		
47	04/03/2005	DATE FORWARDED TO EXAMINER		
46	03/21/2005	RESPONSE AFTER NON-FINAL ACTION	60	44
45	03/21/2005	REQUEST FOR EXTENSION OF TIME - GRANTED		
44	10/20/2004	MAIL NON-FINAL REJECTION		
43	11/19/2003	REFERENCE CAPTURE ON IDS		
42	10/18/2004	NON-FINAL REJECTION		
41	08/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE		
40	10/12/2001	REFERENCE CAPTURE ON IDS		
39	08/11/2004	DATE FORWARDED TO EXAMINER		
38	08/03/2004	RESPONSE AFTER NON-FINAL ACTION		
37	08/03/2004	WORKFLOW INCOMING AMENDMENT IFW		
36	05/03/2004	MAIL NON-FINAL REJECTION		
35	05/03/2004	NON-FINAL REJECTION		
34	04/06/2004	DATE FORWARDED TO EXAMINER		
33	03/22/2004	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL		
32	03/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED		
31	02/06/2004	MAIL ADVISORY ACTION (PTOL - 303)		
30	02/06/2004	ADVISORY ACTION (PTOL-303)		
29	01/29/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)		
28	01/16/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)		
27	01/22/2004	NOTICE OF APPEAL FILED		
26	01/28/2004	DATE FORWARDED TO EXAMINER		

25	01/22/2004	AMENDMENT AFTER FINAL REJECTION	90	22
24	01/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED		
23	11/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
22	07/24/2003	MAIL FINAL REJECTION (PTOL - 326)		
21	07/24/2003	FINAL REJECTION		
20	05/13/2003	DATE FORWARDED TO EXAMINER		
19	05/07/2003	RESPONSE AFTER NON-FINAL ACTION		
18	02/07/2003	MAIL NON-FINAL REJECTION		
17	02/05/2003	NON-FINAL REJECTION		
16	01/24/2003	DATE FORWARDED TO EXAMINER		
15	01/15/2003	AMENDMENT AFTER FINAL REJECTION		
14	10/22/2002	MAIL FINAL REJECTION (PTOL - 326)		
13	10/21/2002	FINAL REJECTION		
12	08/14/2002	DATE FORWARDED TO EXAMINER		
11	08/07/2002	RESPONSE AFTER NON-FINAL ACTION	33	9
10	08/07/2002	REQUEST FOR EXTENSION OF TIME - GRANTED		
9	04/05/2002	MAIL NON-FINAL REJECTION		
8	04/03/2002	NON-FINAL REJECTION		
7	03/28/2002	CASE DOCKETED TO EXAMINER IN GAU		
6	01/22/2002	CASE DOCKETED TO EXAMINER IN GAU		
5	01/04/2002	TRANSFER INQUIRY TO GAU		
4	11/13/2001	APPLICATION DISPATCHED FROM OIPE		
3	11/09/2001	CORRESPONDENCE ADDRESS CHANGE		
2	10/18/2001	IFW SCAN & PACR AUTO SECURITY REVIEW		
1	10/12/2001	INITIAL EXAM TEAM NN		

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EXPLANATION OF PTA CALCULATION

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